

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

MICHAEL A. MARTINDALE,

Plaintiff,

vs.

PAUL REES, M.D.,

Defendant.

CV 18–95–H–BMM–JTJ

ORDER

The Court sent mail to Plaintiff Michael A. Martindale (“Martindale”) on February 12, 2019, and February 27, 2019. The mail was returned as undeliverable indicating that Martindale was no longer incarcerated at Montana State Prison. (Docs. 16, 18.) The Montana Department of Corrections website indicates that Martindale has been paroled and the Clerk of Court forwarded these mailings to Martindale in care of Missoula Probation and Parole.

Martindale was advised in the Court’s September 27, 2018, Notice of Case Opening (Doc. 3 at 2), the Court’s Order dated October 24, 2018, (Doc. 5 at 5), and the Court’s January 9, 2019, Scheduling Order (Doc. 13 at 9) that he must

immediately inform the Clerk of Court of any change in his address and a failure to do so could result in dismissal of his case. It has been more than 60 days since the return of written communication from the Court addressed to Martindale's address of record and Martindale has not filed a notice of change of address.

Magistrate Judge John Johnston entered his Findings and Recommendations in this matter on May 1, 2019. (Doc. 21.) Judge Johnston determined that Martindale has failed to comply with the Court's Order to inform the Clerk of Court of any change in his address and this failure meets the requirements for dismissal of his case. Neither party filed objections.

Absent objection, this Court reviews findings and recommendations for clear error. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted). The Court finds no error in Judge Johnston's Findings and Recommendations.

**IT IS ORDERED** that Judge Johnston's Findings and Recommendations (Doc. 21.) are **ADOPTED IN FULL**.

**IT IS FURTHER ORDERED** that Martindale's action is **DISMISSED** without prejudice pursuant to L.R. 5.3 (b). The Clerk of Court is directed to mail a

copy of this Order to Martindale at his address of record and in care of Missoula Probation and Parole.

DATED this 22nd day of May, 2019.

A handwritten signature in blue ink, reading "Brian Morris". The signature is written in a cursive style with a horizontal line extending from the end of the name.

Brian Morris  
United States District Court Judge

